
Ronald H. Lewis, Chair
Panel A

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8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **ARWINNAH BAUTISTA, M.D.**
15 **1430 E. Plaza Blvd., Suite E19A**
National City, CA 91950-3690

16 **Physician's and Surgeon's Certificate**
17 **No. C 51221**

18 Respondent.

Case No. 8002015011304

OAH No. 2017100514

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by LeAnna E. Shields,
26 Deputy Attorney General.

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2. Respondent Arwinnah Bautista, M.D. (Respondent) is represented in this proceeding by attorney Matthew R. Souther, Esq., whose address is: 110 West A Street, Suite 1200 San Diego, CA 92101.

3. On or about June 20, 2003, the Board issued Physician's and Surgeon's Certificate No. C 51221 to Respondent. The Physician's and Surgeon's Certificate No. C 51221 was in full force and effect at all times relevant to the charges brought in Accusation No. 8002015011304, and will expire on September 30, 2018, unless renewed.

JURISDICTION

4. On or about September 11, 2017, Accusation No. 8002015011304 was filed before the Board and is currently pending against Respondent. A true and correct copy of Accusation No. 8002015011304 and all other statutorily required documents were properly served on Respondent on September 11, 2017. Respondent timely filed her Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 8002015011304 is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 8002015011304. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary
2 Order or of any matter or matters related hereto.

3 **ADDITIONAL PROVISIONS**

4 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
5 be an integrated writing representing the complete, final and exclusive embodiment of the
6 agreements of the parties in the above-entitled matter.

7 13. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
8 including copies of the signatures of the parties, may be used in lieu of original documents and
9 signatures and, further, that such copies shall have the same force and effect as originals.

10 14. Respondent agrees that her Physician's and Surgeon's Certificate No. C 51221 is
11 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth
12 in the Disciplinary Order below.

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 51221 issued
15 to Respondent Arwinnah Bautista, M.D., is revoked. However, the revocation is stayed and
16 Respondent is placed on probation for three (3) years from the effective date of the Decision on
17 the following terms and conditions:

18 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
19 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
20 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
21 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
22 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
23 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
24 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
25 completion of each course, the Board or its designee may administer an examination to test
26 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
27 hours of CME of which 40 hours were in satisfaction of this condition.

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1 2. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
2 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
3 advance by the Board or its designee. Respondent shall provide the approved course provider
4 with any information and documents that the approved course provider may deem pertinent.
5 Respondent shall participate in and successfully complete the classroom component of the course
6 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
7 complete any other component of the course within one (1) year of enrollment. The medical
8 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
9 Medical Education (CME) requirements for renewal of licensure.

10 A medical record keeping course taken after the acts that gave rise to the charges in the
11 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
12 or its designee, be accepted towards the fulfillment of this condition if the course would have
13 been approved by the Board or its designee had the course been taken after the effective date of
14 this Decision.

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

18 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
19 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
20 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
21 Respondent shall participate in and successfully complete that program. Respondent shall
22 provide any information and documents that the program may deem pertinent. Respondent shall
23 successfully complete the classroom component of the program not later than six (6) months after
24 Respondent's initial enrollment, and the longitudinal component of the program not later than the
25 time specified by the program, but no later than one (1) year after attending the classroom
26 component. The professionalism program shall be at Respondent's expense and shall be in
27 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

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1 A professionalism program taken after the acts that gave rise to the charges in the
2 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
3 or its designee, be accepted towards the fulfillment of this condition if the program would have
4 been approved by the Board or its designee had the program been taken after the effective date of
5 this Decision.

6 Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than 15 calendar days after successfully completing the program or not later
8 than 15 calendar days after the effective date of the Decision, whichever is later.

9 4. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
10 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
11 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
12 licenses are valid and in good standing, and who are preferably American Board of Medical
13 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
14 relationship with Respondent, or other relationship that could reasonably be expected to
15 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
16 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
17 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

18 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
19 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
20 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
21 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
22 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
23 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
24 signed statement for approval by the Board or its designee.

25 Within 60 calendar days of the effective date of this Decision, and continuing throughout
26 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
27 make all records available for immediate inspection and copying on the premises by the monitor
28 at all times during business hours and shall retain the records for the entire term of probation.

1 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
2 date of this Decision, Respondent shall receive a notification from the Board or its designee to
3 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
4 shall cease the practice of medicine until a monitor is approved to provide monitoring
5 responsibility.

6 The monitor(s) shall submit a quarterly written report to the Board or its designee which
7 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
8 are within the standards of practice of medicine, specifically, within the standards of practice in
9 the area of dermatology only, and whether Respondent is practicing medicine safely. It shall be
10 the sole responsibility of Respondent to ensure that the monitor submits the quarterly written
11 reports to the Board or its designee within 10 calendar days after the end of the preceding quarter.

12 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
13 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
14 name and qualifications of a replacement monitor who will be assuming that responsibility within
15 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
16 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
17 notification from the Board or its designee to cease the practice of medicine, in the area of
18 dermatology, within three (3) calendar days after being so notified. Respondent shall cease the
19 practice of medicine, in the area of dermatology, until a replacement monitor is approved and
20 assumes monitoring responsibility.

21 In lieu of a monitor, Respondent may participate in a professional enhancement program
22 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
23 review, semi-annual practice assessment, and semi-annual review of professional growth and
24 education. Respondent shall participate in the professional enhancement program at
25 Respondent's expense during the term of probation.

26 5. PROHIBITED PRACTICE. During probation, Respondent is prohibited from
27 supervising and hiring estheticians. After the effective date of this Decision, all patients being
28 treated by the Respondent shall be notified that the Respondent is prohibited from supervising

1 and hiring estheticians. Any new patients must be provided this notification at the time of their
2 initial appointment.

3 Respondent shall maintain a log of all patients to whom the required oral notification was
4 made. The log shall contain the: 1) patient's name, address and phone number; 2) patient's
5 medical record number, if available; 3) the full name of the person making the notification; 4) the
6 date the notification was made; and 5) a description of the notification given. Respondent shall
7 keep this log in a separate file or ledger, in chronological order, shall make the log available for
8 immediate inspection and copying on the premises at all times during business hours by the Board
9 or its designee, and shall retain the log for the entire term of probation.

10 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
11 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
12 advanced practice nurses.

13 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
14 governing the practice of medicine in California and remain in full compliance with any court
15 ordered criminal probation, payments, and other orders.

16 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
17 under penalty of perjury on forms provided by the Board, stating whether there has been
18 compliance with all the conditions of probation.

19 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
20 of the preceding quarter.

21 9. GENERAL PROBATION REQUIREMENTS.

22 Compliance with Probation Unit

23 Respondent shall comply with the Board's probation unit.

24 Address Changes

25 Respondent shall, at all times, keep the Board informed of Respondent's business and
26 residence addresses, email address (if available), and telephone number. Changes of such
27 addresses shall be immediately communicated in writing to the Board or its designee. Under no

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1 circumstances shall a post office box serve as an address of record, except as allowed by Business
2 and Professions Code section 2021(b).

3 Place of Practice

4 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
5 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
6 facility.

7 License Renewal

8 Respondent shall maintain a current and renewed California physician's and surgeon's
9 license.

10 Travel or Residence Outside California

11 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
12 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
13 (30) calendar days.

14 In the event Respondent should leave the State of California to reside or to practice,
15 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
16 departure and return.

17 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
18 available in person upon request for interviews either at Respondent's place of business or at the
19 probation unit office, with or without prior notice throughout the term of probation.

20 11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
21 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
22 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
23 defined as any period of time Respondent is not practicing medicine as defined in Business and
24 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
25 patient care, clinical activity or teaching, or other activity as approved by the Board. If
26 Respondent resides in California and is considered to be in non-practice, Respondent shall
27 comply with all terms and conditions of probation. All time spent in an intensive training
28 program which has been approved by the Board or its designee shall not be considered non-

1 practice and does not relieve Respondent from complying with all the terms and conditions of
2 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
3 on probation with the medical licensing authority of that state or jurisdiction shall not be
4 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
5 period of non-practice.

6 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
7 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
8 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
9 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
10 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

11 Respondent's period of non-practice while on probation shall not exceed two (2) years.

12 Periods of non-practice will not apply to the reduction of the probationary term.

13 Periods of non-practice for a Respondent residing outside of California will relieve
14 Respondent of the responsibility to comply with the probationary terms and conditions with the
15 exception of this condition and the following terms and conditions of probation: Obey All Laws;
16 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
17 Controlled Substances; and Biological Fluid Testing.

18 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
19 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
20 completion of probation. Upon successful completion of probation, Respondent's certificate shall
21 be fully restored.

22 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
23 of probation is a violation of probation. If Respondent violates probation in any respect, the
24 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
25 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
26 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
27 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
28 be extended until the matter is final.

14. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Matthew R. Souther. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 51221. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

ARWINNAH BAUTISTA, M.D.
Respondent

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15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Matthew R. Souther. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. C 51221. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

3/26/18

ARWINNAH BAUTISTA, M.D.
Respondent

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1 I have read and fully discussed with Respondent Arwinnah Bautista, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

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5 DATED: 3/27/2018


MATTHEW R. SOUTHER
Attorney for Respondent


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8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Medical Board of California.

11 Dated: 3-28-18

Respectfully submitted,

12 XAVIER BECERRA
13 Attorney General of California
14 MATTHEW M. DAVIS
Supervising Deputy Attorney General

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16 LEANNA E. SHIELDS
17 Deputy Attorney General
18 *Attorneys for Complainant*

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Exhibit A

Accusation No. 8002015011304

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Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2015-011304

ARWINNAH BAUTISTA, M.D.
1430 E. Plaza Blvd., Suite E19A
National City, CA 91950-3690

A C C U S A T I O N

Physician's and Surgeon's Certificate
No. C 51221,

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about June 20, 2003, the Medical Board issued Physician's and Surgeon's Certificate No. C 51221 to Arwinnah Bautista, M.D. (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2018, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code states:

“(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

“(1) Have his or her license revoked upon order of the board.

“(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

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1 5. Section 2234 of the Code states, in pertinent part:

2 “The board shall take action against any licensee who is charged with
3 unprofessional conduct. In addition to other provisions of this article, unprofessional
4 conduct includes, but is not limited to, the following:

5 “... ”

6 “(b) Gross negligence.

7 “(c) Repeated negligent acts. To be repeated, there must be two or more
8 negligent acts or omissions. An initial negligent act or omission followed by a
9 separate and distinct departure from the applicable standard of care shall constitute
10 repeated negligent acts.

11 “(1) An initial negligent diagnosis followed by an act or omission medically
12 appropriate for that negligent diagnosis of the patient shall constitute a single
13 negligent act.

14 “(2) When the standard of care requires a change in the diagnosis, act, or
15 omission that constitutes the negligent act described in paragraph (1), including, but
16 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
17 licensee's conduct departs from the applicable standard of care, each departure
18 constitutes a separate and distinct breach of the standard of care.

19 “... ”

20 6. Section 2264 of the Code states:

21 “The employing, directly or indirectly, the aiding, or the abetting of any
22 unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in
23 the practice of medicine or any other mode of treating the sick or afflicted which
24 requires a license to practice constitutes unprofessional conduct.”

25 7. Section 2266 of the Code states:

26 “The failure of a physician and surgeon to maintain adequate and accurate
27 records relating to the provision of services to their patients constitutes unprofessional
28 conduct.”

1 8. Section 2271 of the Code states:

2 "Any advertising in violation of Section 17500, relating to false or misleading
3 advertising, constitutes unprofessional conduct."

4 9. Section 2285 of the Code states, in pertinent part:

5 "The use of any fictitious, false, or assumed name, or any name other than his
6 or her own by a licensee either alone, in conjunction with a partnership or group, or as
7 the name of a professional corporation, in any public communication, advertisement,
8 sign, or announcement of his or her practice without a fictitious-name permit obtained
9 pursuant to Section 2415 constitutes unprofessional conduct....

10 "..."

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Gross Negligence)**

13 10. Respondent has subjected her Physician's and Surgeon's Certificate No. C 51221 to
14 disciplinary action under 2227 and 2234, as defined by 2234, subdivision (b), in that she
15 committed gross negligence as more particularly alleged hereinafter:

16 11. On or about February 7, 2013, patient S.E. presented to respondent for freckles and
17 skin tightening treatment. Respondent documented patient S.E.'s freckles and performed a laser
18 treatment using a MiXto CO2 fractional laser.

19 12. Patient S.E.'s melasma¹ was not documented as a diagnoses by respondent.

20 13. Respondent did not document any discussion with patient S.E. regarding the risks or
21 complications of treatment.

22 14. Following the procedure, patient S.E. became concerned with the darkening
23 appearance on her skin where the laser treatment occurred. Patient S.E. corresponded with
24 respondent over the telephone and was informed her skin would recover over time.

25 15. On or about March 5, 2013, patient S.E. had a follow up appointment with J.P.,
26 respondent's aesthetician. Patient S.E. expressed concern about the appearance of her skin. J.P.

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28 ¹ "Melasma" is a condition of the skin causing facial skin discoloration typically appearing as patches of
brown, tan or blue-gray.

1 diagnosed patient S.E. with post-inflammatory hyperpigmentation secondary to the laser
2 treatment. J.P. then treated patient S.E. with a microdermabrasion (Diamond Peel) followed by a
3 chemexfoliation procedure using trichloroacetic acid (TCA) 5% solution.

4 16. On or about September 26, 2013 and October 24, 2013, patient S.E. was again seen
5 by J.P. who diagnosed patient S.E. with post-inflammatory hyperpigmentation secondary to the
6 laser treatment that was improving but not resolved. At these visits, J.P. treated patient S.E. with
7 the microdermabrasion (Diamond Peel) followed by the chemexfoliation procedure using
8 trichloroacetic acid (TCA) 5% solution.

9 17. At no time following the laser procedure on February 7, 2013 was patient S.E. seen
10 by respondent at her clinic despite repeated complaints regarding the darkening of her skin.

11 18. Respondent's business advertisement identified respondent's clinic as "Clear Skin
12 Med Spa." A search of the Board's records revealed there is no fictitious name permit issued by
13 the Medical Board of California to respondent for this business.

14 19. Respondent's business advertisement also identifies respondent's aesthetician, J.P. as
15 being an "M.D."

16 20. Respondent committed gross negligence in her care and treatment of patient S.E.,
17 which included, but was not limited to:

- 18 A. Respondent failed to properly evaluate the patient's suitability for the
19 procedure, including the failure to document any factors that may contribute to
20 complications;
- 21 B. Respondent failed to perform an initial test spot on patient S.E. who was at high
22 risk for pigmentary complications due to patient S.E.'s skin type and failed to
23 use the appropriate power level thereby increasing patient S.E.'s risk of post-
24 operative hyperpigmentation;
- 25 C. Respondent failed to properly manage patient S.E.'s post-operative cutaneous
26 hyperpigmentation by permitting her aesthetician, J.P., to perform a series of
27 microdermabrasion procedures followed by TCA chemical peels after only four
28 weeks;

- 1 D. Respondent failed to adequately supervise her aesthetician, J.P., and aided and
2 abetted the unlicensed practice of medicine by permitting J.P. to function as an
3 independent medical practitioner performing procedures on patient S.E. which
4 were beyond her scope of training; and
- 5 E. Respondent failed to obtain adequate training and education in the field of
6 dermatology.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Repeated Negligent Acts)**

9 21. Respondent has further subjected her Physician's and Surgeon's Certificate No. C
10 51221 to disciplinary action under 2227 and 2234, as defined by 2234, subdivision (c), in that she
11 committed repeated negligent acts as more particularly alleged hereinafter:

12 22. Paragraphs 10 through 20, above, are hereby incorporated by reference and realleged
13 as if fully set forth herein.

14 23. Respondent committed repeated negligent acts which included, but was not limited
15 to:

- 16 A. Respondent failed to perform a proper initial evaluation, including an adequate
17 dermatologic history and physical examination, before performing the laser
18 treatment and failed to take pre-operative photographs in a high-risk patient;
- 19 B. Respondent failed to obtain written informed consent from patient S.E. prior to
20 performing cosmetic laser surgery;
- 21 C. Respondent failed to maintain adequate and accurate medical records, including
22 her examination and rationale for the treatment; and
- 23 D. Respondent listed the title "M.D." after J.P.'s name in their business
24 advertisement, knowing J.P. is not licensed to practice medicine in the United
25 States.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Aiding and Abetting the Unlicensed Practice of Medicine)**

3 24. Respondent has further subjected her Physician's and Surgeon's Certificate No. C
4 51221 to disciplinary action under 2227 and 2234, as defined by 2264, in that she aided and
5 abetted the unlicensed practice of medicine by J.P., as more particularly alleged in paragraphs 10
6 through 23, above, which are hereby incorporated by reference and realleged as if fully set forth
7 herein.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Inadequate or Inaccurate Record Keeping)**

10 25. Respondent has further subjected her Physician's and Surgeon's Certificate No. C
11 51221 to disciplinary action under 2227 and 2234, as defined by 2266, in that she failed to
12 maintain adequate or accurate medical records regarding her care and treatment of patient S.E., as
13 more particularly alleged in paragraphs 10 through 23, above, which are hereby incorporated by
14 reference and realleged as if fully set forth herein.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(False Advertising)**

17 26. Respondent has further subjected her Physician's and Surgeon's Certificate No. C
18 51221 to disciplinary action under 2227 and 2234, as defined by 2271, in that she listed the title
19 "M.D." after J.P.'s name in their business advertisements, as more particularly alleged in
20 paragraphs 10 through 23, above, which are hereby incorporated by reference and realleged as if
21 fully set forth herein.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 **(Fictitious Name Permit)**


24 27. Respondent has further subjected her Physician's and Surgeon's Certificate No. C
25 51221 to disciplinary action under 2227 and 2234, as defined by 2285, in that she failed to obtain
26 a fictitious name permit from the Medical Board of California for her business, as more
27 particularly alleged in paragraphs 10 through 23, above, which are hereby incorporated by
28 reference and realleged as if fully set forth herein.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. C 51221, issued to respondent Arwinnah Bautista, M.D.;
2. Revoking, suspending or denying approval of respondent Arwinnah Bautista, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering respondent Arwinnah Bautista, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: September 11, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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